

## **REMARKS:**

### **I. Introduction**

In an Office Action mailed on November 1, 2007, the Examiner rejected claims 1 to 20. The present amendment cancels claims 18 to 20, amends claims 1 to 17, and adds new claims 21 to 23. Accordingly, claims 1 to 17 and 21 to 23 are now pending in this application.

### **II. Claim Rejections Pursuant to 35 U.S.C 102**

The Examiner rejected claims 1, 3 to 5, 8, 10, 12 to 14, 17, 18 and 20 pursuant to 35 U.S.C 103(a) as anticipated by Fitzgerald (US 6,434,533).

Fitzgerald discloses a method where a plurality of businesses having time dependent inventory, such as hotels, provide performance data to a report center on a first day. The report center processes the performance data and reports the processed performance data on a second day. The second day is less than 11 days after the first day. The businesses then set a price for the time dependent inventory based on the processed performance data hotels etc. Thus, pricing is set based on information that is at least one day old.

In contrast, the present invention provides hotels with current daily rate information and current room availability information of a plurality of hotels. This current information is used by a hotel, when the hotel is sold out or overbooked, to refer potential customers to other hotels that have comparable rooms currently available. By providing an alternative to the potential customer, the potential customer is much more likely to have a favorable impression of the hotel and utilize the hotel in the future. The present invention also provides the hotel with an additional revenue stream which is currently not available by providing a referral fee to the hotel whenever a referral results in a stay at one the plurality of hotels. Fitzgerald does not mention or address the problem of sold out or overbooked situations and does not disclose or reasonably suggest referrals or referral fees. In fact, the method disclosed by Fitzgerald cannot address this problem because the information he provides is at least a day old and information that is even a day old cannot be utilized for referrals.

Independent claim 1, and claims dependent therefrom, are allowable because they each require "providing current information to the plurality of hotels including current daily rate information of the plurality of hotels and current room availability information of the plurality of hotels so that a referring hotel of the plurality of hotels can make at least one of a reservation for

a potential customer at an available hotel of the plurality of hotels and a referral of the available hotel to the potential customer” and “providing a referral fee to the referring hotel when the potential customer stays at the available hotel in response to at least one of the reservation and the referral.” No prior art of record discloses or reasonably suggests the present invention as now claimed by independent claim 1. Reconsideration and withdrawal of the rejection is requested.

Independent claim 10, and claims dependent therefrom, are allowable because they each require “wherein the computer is programmed to provide current information to the plurality of hotels including current daily rate information of the plurality of hotels and current room availability information of the plurality of hotels.” No prior art of record discloses or reasonably suggests the present invention as now claimed by independent claim 10. Reconsideration and withdrawal of the rejection is requested.

Independent claim 18 has been cancelled without prejudice as to reclaiming the subject matter in the future.

New independent claim 21, and claims dependent therefrom, are allowable because they each require “receiving from the service provider current information for a plurality of hotels including current daily rate information of the plurality of hotels and current room availability information of the plurality of hotels so that the referring hotel of the plurality of hotels can make at least one of a reservation for a potential customer at an available hotel of the plurality of hotels and a referral of the available hotel to the potential customer” and “receiving a referral fee when the potential customer stays at the available hotel in response to at least one of the reservation and the referral.” No prior art of record discloses or reasonably suggests the present invention as claimed by independent claim 21. An indication of allowance is requested.

### **III. Claim Rejections Pursuant to 35 U.S.C 103**

(a) The Examiner rejected claims 2, 11, and 19 pursuant to 35 U.S.C 103(a) as unpatentable over Fitzgerald (US 6,434,533).

Claims 2 and 11 are allowable as depending from allowable independent claims 1 and 10 as discussed above and independently allowable for novel and nonobvious matter contained

therein. Claim 19 has been cancelled. Reconsideration and withdrawal of the rejection is requested.

(b) The Examiner rejected claims 6, 7, 9, 15, and 16 pursuant to 35 U.S.C 103(a) as unpatentable over Fitzgerald (US 6,434,533) in view of Official Notice.

Claims 6, 7, 9, 15, and 16 are allowable as depending from allowable independent claims 1 and 10 as discussed above and independently allowable for novel and nonobvious matter contained therein. Reconsideration and withdrawal of the rejection is requested.

#### **IV. Conclusion**

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is found that that the present amendment does not place the application in a condition for allowance, Applicant's undersigned attorney requests that the Examiner initiate a telephone interview to expedite prosecution of the application. If there are any fees resulting from this communication, please charge same to our Deposit Account No. 50-3915.

Respectfully submitted,

---

Richard M. Mescher  
Reg. No. 38,242

PORTER, WRIGHT, MORRIS & ARTHUR LLP  
41 South High Street  
Columbus, Ohio 43215  
(614) 227-2026  
Fax: (614) 227-2100

June 9, 2008